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46917 7590 03/04/2008

KONRAD RAYNES & VICTOR, L.P.
ATTN: IBM37
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS, CA 90212

EXAMINER

MIRZA, ADNAN M

ART UNIT

PAPER NUMBER

2145

DATE MAILED: 03/04/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/591,024

06/09/2000

David Alan Burton

TUCY2000014US1

3477

TITLE OF INVENTION: METHOD, SYSTEM, AND PROGRAM FOR SELECTING ONE OF MULTIPLE PATHS TO COMMUNICATE WITH A DEVICE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$0	\$0	\$1440	06/04/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

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A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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46917 7590 03/04/2008

**KONRAD RAYNES & VICTOR, L.P.
ATTN: IBM37
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS, CA 90212**

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE-FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/591,024 06/09/2000 David Alan Burton TUC92000014US1 3477

TITLE OF INVENTION: METHOD, SYSTEM, AND PROGRAM FOR SELECTING ONE OF MULTIPLE PATHS TO COMMUNICATE WITH A DEVICE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$0	\$0	\$1440	06/04/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
MIRZA, ADNAN M	2145	709-238000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

2. For printing on the patent front page, list

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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EXAMINER

MIRZA, ADNAN M

ART UNIT

PAPER NUMBER

2145

DATE MAILED: 03/04/2008

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 664 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 664 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

09/591,024

Examiner

ADNAN M. MIRZA

Applicant(s)

BURTON ET AL.

Art Unit

2145

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/05/2007.
2. ☒ The allowed claim(s) is/are 1-3,5,6,8-17,19-31,33,34 and 36-48.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicants, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it must be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Applicant's attorney David Victor on February 14th, 2008.

Please amend claims 15, 16, 19, 20, 22, 23, 24, 25, 29, 30, 31, 33, 34, 36, 37-40, 42, 45 and 48.

15. (Currently Amended) A system for selecting one of multiple data paths to a device, comprising:

a controller;

code executed by the controller to perform operations, the operations comprising:

~~means for~~ selecting one of multiple paths indicated as enabled to transmit data, wherein a path is indicated as enabled or disabled;

~~means for~~ gathering transfer time data for first and second transfer sizes for each path, wherein the transfer size is a size of the data being transferred in one transfer operation;

~~means for~~ determining one path currently indicated as enabled to be selected to transfer data for the first transfer size that has transfer time data for the first transfer size satisfying a threshold transfer time; and

~~means for~~ indicating the determined path as disabled for the first transfer size, wherein paths indicated as disabled for one of the transfer sizes are not capable of being selected to use to transmit data having the transfer size, wherein the determined path

indicated as disabled for the first transfer size is enabled to transfer data for the second transfer size.

16. (Currently Amended) The system of claim 15, wherein the operations further comprise
~~comprising:~~

~~means for~~ indicating one disabled path as enabled after performing a threshold number of transfer operations.

19. (Currently Amended) A system for selecting one of multiple data paths to a device,
comprising:

a controller;

code executed by the controller to perform operations, the operations comprising:

~~means for~~ selecting one of multiple paths indicated as enabled to transmit data for a plurality of transfer size ranges, wherein a path is indicated as enabled or disabled;

~~means for~~ gathering a cumulative transfer time for all transfer operations for each of the transfer size ranges during a measurement period through the path and a cumulative number of the transfer operations for each of the transfer size ranges during the measurement period for each enabled path; and

~~means for~~ determining the average cumulative transfer time for each of the transfer size ranges and paths for the measurement period by dividing the cumulative time for the transfer size range by the cumulative number of transfers for the transfer size range for each enabled path; and

~~means for~~ indicating one of the paths as disabled for one of the transfer size ranges if the average cumulative transfer time for the path for the transfer size range satisfies a threshold, wherein the paths are capable of being selectively enabled and disabled for different transfer size ranges.

20. (Currently Amended) The system of claim 19, wherein the measurement period comprises a number of transfer operations for all paths, wherein the determination to disable paths occurs after the number of transfer operations in the measurement period has occurred, and ~~further comprising means for~~ wherein the operations further comprise starting another measurement period to gather transfer time data for the transfer size ranges after determining paths to disable.

22. (Currently Amended) The system of claim 19, wherein the determination to disable paths for one of the transfer size ranges occurs after the number of transfer operations in the measurement period has occurred, and ~~further comprising means for~~ wherein the operations further comprise starting another measurement period to gather transfer time data for the transfer size ranges after determining paths to disable for the transfer size ranges.

23. (Currently Amended) The system of claim 19, wherein the transfer time is measured for the transfer size ranges from the time the transfer is sent to the device to the time a response is received from the device indicating that the transfer completed, wherein the operations further comprise ~~further comprising means for~~ adding the transfer time for a transfer transmitted down the path to the cumulative transfer time for the transfer size range for the path.

24. (Currently Amended) The system of claim 19, ~~further comprising~~ wherein the operations further comprise:
~~means for~~ determining for each enabled path a best average transfer time for each of the transfer size ranges from the average cumulative transfer times for each of the transfer size ranges for all paths for each enabled path, wherein the ~~means for~~ operations further comprise determining whether the average cumulative transfer time for one path and transfer size range satisfies the threshold comprises ~~means for~~ determining whether the average cumulative transfer time for the transfer size range and the path exceeds the best average transfer time for the transfer size range by a percentage amount.

25. (Currently Amended) The system of claim 24, wherein ~~the means for~~ determining whether the average cumulative transfer time for each of the transfer size ranges satisfies the threshold further comprises ~~means for~~ disabling the path for one of the transfer size ranges for a first number of transfer operations if the average cumulative transfer time for the transfer size range for the path exceeds the best average transfer time for the transfer size range by a first percentage amount and disabling the path for the transfer size range for a second number of transfer operations in response to determining that the average cumulative transfer time for the transfer size range for the path exceeds the best average transfer time by a second percentage amount.

29. (Currently Amended) ~~An information-bearing medium~~ A computer readable storage medium including code executed by a processor to select for selecting one of multiple data paths to a device and to perform operations, the operations comprising ~~wherein the information-bearing medium includes code capable of causing a processor to perform:~~

selecting one of multiple paths indicated as enabled to transmit data, wherein a path is indicated as enabled or disabled;

gathering transfer time data for first and second transfer sizes for each path, wherein the transfer size is a size of the data being transferred in one transfer operation; and

determining one path currently indicated as enabled to be selected to transfer data for the first transfer size that has transfer time data for the first transfer size satisfying a threshold transfer time; and

indicating the determined path as disabled for the first transfer size wherein paths indicated as disabled for one of the transfer sizes are not capable of being selected to use to transmit data having the transfer size, wherein the determined path indicated as disabled for the first transfer size is enabled to transfer data for the second transfer size.

30. (Currently Amended) ~~The information-bearing~~ computer readable storage medium of claim 29, wherein the operations further comprise ~~further capable of causing the processor to perform:~~

indicating one disabled path as enabled after performing a threshold number of transfer operations.

31. (Currently Amended) The ~~information-bearing~~ computer readable storage medium of claim 30, wherein the path indicated as disabled is disabled for a first threshold number of transfer operations if the transfer data time for the path satisfies a first threshold and disabling the path for a second threshold number of transfer operations if the transfer data time for the path satisfies a second threshold.

33. (Currently Amended) An ~~information-bearing~~ computer readable storage medium ~~including code executed by a processor to select for selecting one of multiple data paths to a device and perform operations, the operations comprising, wherein the information-bearing medium includes code capable of causing a processor to perform:~~

selecting one of multiple paths indicated as enabled to transmit data for a plurality of transfer size ranges, wherein a path is indicated as enabled or disabled;

for each enabled path, gathering a cumulative transfer time for all transfer operations for each of the transfer size ranges during a measurement period through the path and a cumulative number of the transfer operations for each of the transfer size ranges during the measurement period; and

for each enabled path determining the average cumulative transfer time for each of the transfer size ranges for the measurement period by dividing the cumulative time for the transfer size range by the cumulative number of transfers for the transfer size range; and

indicating the path as disabled for one of the transfer size ranges if the average cumulative transfer time for the path for the transfer size range satisfies a threshold, wherein the paths are capable of being selectively enabled and disabled for different transfer size ranges.

34. (Currently Amended) The ~~information-bearing~~ computer readable storage medium of claim 33, wherein the measurement period comprises a number of transfer operations for all paths, wherein the determination to disable paths occurs after the number of transfer operations in the measurement period has occurred, and ~~further causing the processor to perform wherein~~

the operations further comprise starting another measurement period to gather transfer time data for the transfer size ranges after determining paths to disable.

36. (Currently Amended) The ~~information-bearing computer readable storage~~ medium of claim 33, wherein the determination to disable paths for one of the transfer size ranges occurs after the number of transfer operations in the measurement period has occurred, and ~~further causing the processor to perform wherein the operations further comprise~~ starting another measurement period to gather transfer time data for the transfer size ranges after determining paths to disable for the transfer size ranges.

37. (Currently Amended) The ~~information-bearing computer readable storage~~ medium of claim 33, wherein the transfer time is measured for the transfer size ranges from the time the transfer is sent to the device to the time a response is received from the device indicating that the transfer completed, and ~~further causing the processor to perform wherein the operations further comprise~~ adding the transfer time for a transfer transmitted down the path to the cumulative transfer time for the transfer size range for the path.

38. (Currently Amended) The ~~information-bearing computer readable storage~~ medium of claim 33, wherein the operations further comprise and ~~further causing the processor to perform:~~

for each enabled path, determining a best average transfer time for each of the transfer size ranges from the average cumulative transfer times for each of the transfer size ranges for all paths, wherein determining whether the average cumulative transfer time for one path and transfer size range satisfies the threshold comprises determining whether the average cumulative transfer time for the transfer size range and the path exceeds the best average transfer time for the transfer size range by a percentage amount.

39. (Currently Amended) The ~~information-bearing computer readable storage~~ medium of claim 38, wherein determining whether the average cumulative transfer time for each of the

transfer size ranges satisfies the threshold further comprises disabling the path for one of the transfer size ranges for a first number of transfer operations if the average cumulative transfer time for the transfer size range for the path exceeds the best average transfer time for the transfer size range by a first percentage amount and disabling the path for the transfer size range for a second number of transfer operations in response to determining that the average cumulative transfer time for the transfer size range for the path exceeds the best average transfer time by a second percentage amount.

40. (Currently Amended) The ~~information-bearing~~ computer readable storage medium of claim 29, wherein the multiple paths comprise multiple paths between a first controller and a second controller, and wherein one path is selected to transmit updates to a primary storage area managed by the first controller to the second controller to store in a secondary storage area.

42. (Original) The ~~information-bearing~~ computer readable storage medium of claim 29, wherein the paths extend through a network.

45. (Currently Amended) The ~~information-bearing~~ computer readable storage medium of claim 29, wherein the threshold is satisfied if a percentage of a first average transfer time for the given path exceeds second average transfer time.

46. (Previously Presented) The method of claim 1, wherein the threshold transfer time comprises a first threshold transfer time and wherein the determined path disabled for the first transfer size is enabled for the second transfer size in response to transfer time data for the second transfer size for the determined path not satisfying a second threshold transfer time.

47. (Previously Presented) The system of claim 15, wherein the threshold transfer time comprises a first threshold transfer time and wherein the determined path disabled for the

first transfer size is enabled for the second transfer size in response to transfer time data for the second transfer size for the determined path not satisfying a second threshold transfer time.

48. (Currently Amended) The ~~information-bearing~~ computer readable storage medium of claim 29, wherein the threshold transfer time comprises a first threshold transfer time and wherein the determined path disabled for the first transfer size is enabled for the second transfer size in response to transfer time data for the second transfer size for the determined path not satisfying a second threshold transfer time.

Reasons for Allowance

1. Claims 1-3, 5-6,8-13,14-17,19-31,33-34,36-41,42-48 will be allowed.
2. The following is an examiner's statement of reasons for allowance.

The prior art references most closely resembling the applicants claimed invention are Bare (U.S. 2003/0016624), Hatakeyama (U.S. 6,542,468) and Kinjo (U.S. 6,944,684).

Hatakeyama disclosed selecting the optimum path to use based on response data does not disclose the specific claim requirement of indicating a disabled path as enabled after performing a threshold number of operations. However Hatakeyama failed to disclose, "wherein the determined path indicated as disabled for the first transfer size is enabled to transfer data for the second transfer size" (claims 1,5,15,19,29,33,39).

Kinijo disclosed how a first communication path is used for a smaller first transfer size, less than a predetermined size, and a second communication path is used for a larger second transfer size, greater than the predetermined size. However Kinijo did not disclose, “wherein the determined path indicated as disabled for the first transfer size is enabled to transfer data for the second transfer size” (claims 1,5,15,19,29,33,39).

Bayer also failed to disclose, “wherein the determined path indicated as disabled for the first transfer size is enabled to transfer data for the second transfer size” (claims 1,5,15,19,29,33,39).

In summary, the Examiner submits that neither Bare nor Hatakeyama and Kinjo teaches all the limitations of independent claims in combination with other elements. Specifically prior art does not teach “wherein the determined path indicated as disabled for the first transfer size is enabled to transfer data for the second transfer size”; therefore, claims 1-3, 5-6,8-13,14-17,19-31,33-34,36-41,42-48 have been deemed allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

The examiner can normally be reached on Monday to Friday during normal business hours. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)-272-3933. The fax for this group is (703)-746-7239. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145